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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

AUG 28 1997  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
Access Charge Reform	)	CC Docket No. 96-262
	)	
Price Cap Performance Review for Local Exchange Carriers	)	CC Docket No. 94-1
	)	
Transport Rate Structure and Pricing	)	CC Docket No. 91-213
	)	
Usage of the Public Switched Network by Information Service and Internet Access Providers	)	CC Docket No. 96-263
	)	

**REPLY OF COMPUSERVE TO OPPOSITIONS TO  
COMPUSERVE'S PETITION FOR RECONSIDERATION**

CompuServe Incorporated by its attorneys and pursuant to Section 1.429 of the Commission's rules, hereby files this reply to the oppositions to CompuServe's petition for reconsideration of part of the Commission's Access Charge Reform First Report and Order.<sup>1/</sup> In its petition, CompuServe requested that the Commission reconsider only that part of its order which allows the local exchange carriers (LECs) to implement call setup charges effective July 1, 1998. CompuServe requested that the Commission reconsider its order at least to the extent that it rule that call setup charges may not be implemented prior to July 1, 2000.

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<sup>1/</sup> Access Charge Reform First Report and Order, CC Docket No. 96-262, 62 Fed. Reg. 31868, June 11, 1997.

CompuServe Incorporated  
CC Docket No. 96-262  
Reply To Oppositions, August 28, 1997

## **I. BACKGROUND**

Although CompuServe had opposed the proposed change in the Commission's rule to allow the LECs to establish call setup charges in their local switching rate structures, it accepted the Commission's decision to allow the LECs to impose such charges, but explained in its reconsideration petition that a transition period until July 1, 2000 was necessary to avoid undue business disruption. CompuServe asserted that "it needs to have adequate time to explore the economic and technological cost/benefit of alternatives and evaluate the feasibility of shifting all or some traffic from an existing network to one or more alternatives, possibly networks designed specifically to carry data traffic."<sup>2/</sup> It stated that another reason why the transition period should be extended is that most providers such as CompuServe have based their own offerings on the premise that the rate structure did not permit call setup charges. In other words, "the service providers' relationships with their customers have assumed the existing rate structure, and it is unreasonable for the Commission to assume that these relationships and the business planning which went into the formation of these relationships may be altered in such a short time frame."<sup>3/</sup> Delineating these same types of practical real-world reasons, the Ad Hoc Users Telecommunications Committee and the Financial Service Providers also requested an extension of the call setup moratorium date to July 1, 2000.<sup>4/</sup>

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<sup>2/</sup> CompuServe Petition for Reconsideration, July 10, 1997, at 5.

<sup>3/</sup> *Id.*

<sup>4/</sup> Petition for Partial Reconsideration on Behalf of Ad Hoc Telecommunications Users Committee, et. al., July 11, 1997.

Finally, CompuServe recited many instances in which the Commission -- with the approval of the courts -- has allowed reasonable transition periods for implementing rate structure changes in order to avoid rate shock or prevent undue disruption to customers or service providers.<sup>5/</sup>

## **II. DISCUSSION**

Only a few parties oppose the requests of CompuServe and the Ad Hoc Telecommunications Users Committee/Financial Service Providers for the Commission to extend the date before which LECs may not implement call setup charges to June 1, 1997.<sup>6/</sup> Significantly, none of these parties really addresses the substance of the reasons that CompuServe and Ad Hoc offered in their petitions as justification for their requests. Instead, these parties simply remark, albeit cursorily, that the Commission's decision to allow the LECs to establish call setup charges was correct. Since CompuServe is not seeking reconsideration of the Commission's fundamental decision, the oppositions of these parties are essentially non-responsive to the reconsideration request.

For example, USTA responds in three sentences. This first two merely state call setup charges would be cost causational and the third asserts: "There is no reason to delay the implementation of call setup charges."<sup>7/</sup> GTE similarly asserts in cursory fashion that a call setup charge would be cost causational, and regarding the request for an extension of the

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<sup>5/</sup> CompuServe Petition for Reconsideration, at 6-8.

<sup>6/</sup> See the oppositions or comments of the United States Telephone Association (USTA); GTE Service Corporation (GTE); BellSouth Corporation (BellSouth), and U S West, Inc. all submitted August 18, 1997.

<sup>7/</sup> USTA, at 9.

implementation date, says only: "Many of the subsidized users are large financial institutions which can claim no inequity or undue harm by being forced to pay the costs they cause."<sup>8/</sup> With regard to the extension request, BellSouth says only that the Commission provided a 12 month extension period and that "interstate customers have had the benefit of a transition period since the interim transport rate structure went into effect four years ago."<sup>9/</sup> Likewise, U S West reargues the merits of the Commission's decision to allow LECs to impose call setup charges, rather than responding to the reasons offered by CompuServe as to why an extension is necessary.<sup>10/</sup>

Obviously, these perfunctory statements are not responsive to the showing made by CompuServe in its reconsideration petition concerning the practical difficulties it would confront absent extension of the implementation date.<sup>11/</sup> CompuServe discussed the need for additional time in order to explore the economic and technical cost/benefits of investing in alternative network arrangements and also to address the business planning and customer relations issues resulting from the potential rate structure change. The parties that oppose an extension do not address these matters.

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<sup>8/</sup> GTE, at 24.

<sup>9/</sup> BellSouth, at 12.

<sup>10/</sup> U S West, at 9-10.

<sup>11/</sup> CompuServe is not sure what BellSouth means by its reference to the "interim" transport rate structure" going into effect four years ago, but CompuServe does not believe it was known -- or knowable -- that the access charge rules would be revised to allow LECs to impose call setup charges until the Commission adopted the Access Charge Reform order in May 1997. Indeed, as CompuServe pointed out in its petition, the Commission previously had rejected requests from Bell Companies that they be allowed to implement call setup charges.

As detailed in CompuServe's petition, in the past the Commission often has recognized the need for reasonable transition periods to implement rate structure changes. Indeed, USTA itself argues for a number of such transition measures in this very proceeding, such as an extended transition plan for maintaining excess access charges for universal service support beyond the January 1, 1999 date designated by the Commission.<sup>12/</sup>

MCI and Sprint both support the requests for an extension. Sprint states that CompuServe and Ad Hoc "have persuasively demonstrated that more time is needed by large communications users to fully evaluate their communications options in areas where LECs may choose to institute such call setup charges, and to implement new network configurations if that is the course they decide to pursue."<sup>13/</sup> MCI states that:

The User Parties and CompuServe correctly point out that without such an extension it is likely that new setup charges, which the Commission predicted would not likely be de minimis, would significantly affect the underlying economics of such large telecommunications users. The User Parties and CompuServe correctly argue that both the Commission and the Courts have long recognized the need for a reasonable transition period to implement rate increases to avoid disruption of service. Given that these users require two to three years to transition their vendor relationships and the uncertainty surrounding the Commission's Internet NOI, the two-year extension requested by the User Parties and CompuServe clearly would be in the public interest.<sup>14/</sup>

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<sup>12/</sup> See USTA Petition, at 9-10. Also see USTA Opposition to Petitions for Reconsideration and/or Clarification, CC Docket 96-45, August 18, 1997, at 1-3.

<sup>13/</sup> Sprint Corporation Opposition and Comments, August 18, 1997, at 3.

<sup>14/</sup> MCI Telecommunications Corporation, August 18, 1997, at 21.

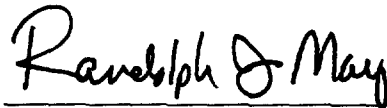
As CompuServe, the Ad Hoc Committee, and the Financial Services Providers certainly have shown, MCI and Sprint are correct that the extension requested by CompuServe is in the public interest.

### **III. CONCLUSION**

For the foregoing reasons, and the reasons contained in CompuServe's Petition for Reconsideration, the Commission should grant CompuServe's request to reconsider its Access Charge Reform First Report and Order at least to the extent that call setup charges may not be implemented prior to July 1, 2000.

Respectfully submitted,

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August 28, 1997

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## **CERTIFICATE OF SERVICE**

I, Teresa Ann Pumphrey, hereby certify that a copy of the foregoing **Reply of CompuServe to Oppositions to CompuServe's Petition For Reconsideration**, was served by first-class mail, postage prepaid and by hand were indicated, this 28th day of August, 1997, on the following persons:

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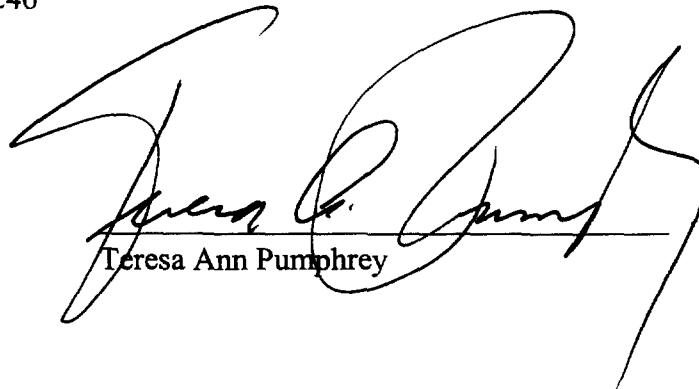
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